



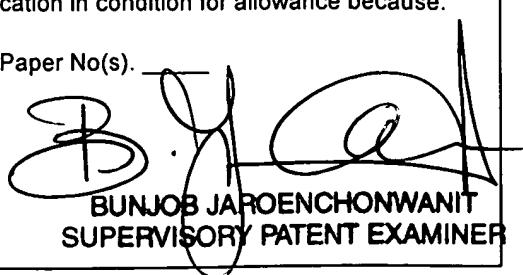
# UNITED STATES PATENT AND TRADEMARK OFFICE

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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO.         |
|---|-------------|----------------------|---------------------|--------------------------|
| 10/076,090  | 02/15/2002  | Giovanni M. Agnoli   | 1968.0040000        | 8666                     |
| 7590  | 06/15/2006  |                      |                     | EXAMINER<br>LIN, KENNY S |
| William S. Frommer<br>Frommer Lawrence & Haug LLP<br>745 Fifth Avenue<br>New York, NY 10151 |             |                      | ART UNIT<br>2152    | PAPER NUMBER             |

DATE MAILED: 06/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|  |                        |                     |  |
|--|------------------------|---------------------|--|
| <b>Advisory Action<br/>Before the Filing of an Appeal Brief</b>  | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|  | 10/076,090             | AGNOLI ET AL.       |  |
| <b>Examiner</b>  | <b>Art Unit</b>        |                     |  |
|  | Kenny Lin              | 2152                |  |
| <b>--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</b>  |                        |                     |  |
| <b>THE REPLY FILED 18 May 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.</b>   |                        |                     |  |
| 1. <input checked="" type="checkbox"/> The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:  |                        |                     |  |
| a) <input type="checkbox"/> The period for reply expires _____ months from the mailing date of the final rejection.  |                        |                     |  |
| b) <input checked="" type="checkbox"/> The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.   |                        |                     |  |
| Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).   |                        |                     |  |
| Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). |                        |                     |  |
| <b>NOTICE OF APPEAL</b>  |                        |                     |  |
| 2. <input type="checkbox"/> The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).   |                        |                     |  |
| <b>AMENDMENTS</b>  |                        |                     |  |
| 3. <input type="checkbox"/> The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because   |                        |                     |  |
| (a) <input type="checkbox"/> They raise new issues that would require further consideration and/or search (see NOTE below);  |                        |                     |  |
| (b) <input type="checkbox"/> They raise the issue of new matter (see NOTE below);  |                        |                     |  |
| (c) <input type="checkbox"/> They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  |                        |                     |  |
| (d) <input type="checkbox"/> They present additional claims without canceling a corresponding number of finally rejected claims.   |                        |                     |  |
| NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).  |                        |                     |  |
| 4. <input checked="" type="checkbox"/> The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  |                        |                     |  |
| 5. <input type="checkbox"/> Applicant's reply has overcome the following rejection(s): _____.  |                        |                     |  |
| 6. <input type="checkbox"/> Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).   |                        |                     |  |
| 7. <input checked="" type="checkbox"/> For purposes of appeal, the proposed amendment(s): a) <input checked="" type="checkbox"/> will not be entered, or b) <input type="checkbox"/> will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  |                        |                     |  |
| The status of the claim(s) is (or will be) as follows:   |                        |                     |  |
| Claim(s) allowed: <u>none</u> .  |                        |                     |  |
| Claim(s) objected to: <u>33</u> .  |                        |                     |  |
| Claim(s) rejected: <u>2-10 and 25-32</u> .   |                        |                     |  |
| Claim(s) withdrawn from consideration: <u>none</u> .   |                        |                     |  |
| <b>AFFIDAVIT OR OTHER EVIDENCE</b>   |                        |                     |  |
| 8. <input type="checkbox"/> The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  |                        |                     |  |
| 9. <input type="checkbox"/> The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  |                        |                     |  |
| 10. <input type="checkbox"/> The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.  |                        |                     |  |
| <b>REQUEST FOR RECONSIDERATION/OTHER</b>   |                        |                     |  |
| 11. <input type="checkbox"/> The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  |                        |                     |  |
| 12. <input type="checkbox"/> Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s).   |                        |                     |  |
| 13. <input type="checkbox"/> Other: _____.   |                        |                     |  |
| <br><b>BUNJOB JAROENCHONWANIT</b><br><b>SUPERVISORY PATENT EXAMINER</b>   |                        |                     |  |

**Notice of Non-Compliant  
Amendment (37 CFR 1.121)**

Application No.

10/076,090

Applicant(s)

AGNOLI ET AL.

Examiner

Art Unit

Kenny Lin

2152

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 18 May 2006 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- 1. Amendments to the specification:
  - A. Amended paragraph(s) do not include markings.
  - B. New paragraph(s) should not be underlined.
  - C. Other \_\_\_\_\_.
- 2. Abstract:
  - A. Not presented on a separate sheet. 37 CFR 1.72.
  - B. Other \_\_\_\_\_.
- 3. Amendments to the drawings:
  - A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - C. Other \_\_\_\_\_.
- 4. Amendments to the claims:
  - A. A complete listing of all of the claims is not present.
  - B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - D. The claims of this amendment paper have not been presented in ascending numerical order.
  - E. Other: See Continuation Sheet.
- 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a Quayle action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

Extensions of time are available under 37 CFR 1.136(a) **only** if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action.

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action; or

Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Continuation of 4(e) Other: the fax copy of the amending containing deletion of 5 character or less terms using straight-through is hard to see. Other terms such as "cache" is mistakenly presented as "cacho" due to fax and electronic scanning. Applicant is suggested to resize the fonts of the claim language.